

REGULAR MONTHLY MEETING OF BERKELEY COUNTY COUNCIL

July 26, 2010

The **Regular Monthly Meeting of Berkeley County Council** was held on Monday **July 26, 2010**, at 6:24 p.m., in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

PRESENT: Mr. Daniel W. Davis, Chairman; Mr. Caldwell Pinckney, Jr., Council Member District No. 7, Vice Chairman; Mr. Phillip Farley, Council Member District No. 1; Mr. Timothy J. Callanan, Council Member District No. 2; Mr. Robert O. Call, Jr., Council Member District No. 3; Mrs. Cathy S. Davis, Council Member District No. 4; Mr. Dennis L. Fish, Council Member District No. 5; Mr. Jack H. Schurlknight, Council Member District No. 6; Mr. Steve C. Davis, Council Member District No. 8; Ms. Nicole Scott Ewing, County Attorney; Mr. Joshua A. Gruber, Assistant County Attorney; and Ms. Barbara B. Austin, Clerk of County Council.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

CALL TO ORDER

Chairman Daniel Davis called the meeting to order.

APPROVAL OF MINUTES

Chairman Daniel Davis asked for approval of minutes from a Special Meeting of Council held June 17, 2010; Public Hearings for Bills Numbered 10-11, 10-12, 10-13, 10-14, 10-15, 10-16, 10-17, 10-18, 10-19 and 10-20, and a Regular Meeting of Council held June 28, 2010.

It was moved by Council Member Steve Davis and seconded by Council Member Pinckney to **approve** the **minutes** as presented. The motion passed by unanimous voice vote of Council.

PUBLIC DISCUSSION

Mr. Paul Kessler: "Paul Kessler, Bonneau, South Carolina. Would this be the proper time for me to discuss the sales – the one percent sales tax?"

Chairman Daniel Davis: "No, Sir; I don't think we have anything on the agenda on the penny sales tax, but you can at the end of the meeting. We will have another time at the end."

Mr. Kessler: "I will wait for my proper time; thank you."

Council Member Steve Davis: “Mr. Supervisor? I think he wanted to discuss an aspect that has been addressed where the 29 percent of one cent, I think...”

Chairman Daniel Davis: “Oh, ok; I’m sorry.”

Council Member Steve Davis: “Yeah, he’s out of my district. I want Mr. Kessler to speak, please.”

Chairman Daniel Davis: “I thought he was talking about the road tax. I’m sorry.”

Mr. Kessler: “I’m very wound up about this. First of all, I’d like to say thank you, gentlemen, for working for my County. I don’t agree with some of the stuff you do, I don’t agree with everything my wife does, but I appreciate ya. This 29 percent you’re throwing away, really, out of my pockets, part of it. Of course, everybody else’s pocket also, but I really believe the proper way to do that would be to bring it back up for the people that voted on that one percent sales tax to start with. Personally, I feel I didn’t give y’all permission to do that. Maybe, y’all feel like you didn’t need my permission too, but I don’t agree with it. I didn’t vote for it. Going with the budget, I read in the paper a couple weeks ago where they started a waterline out towards the Interstate without the funding. Could that have something to do with this budget? I can’t answer that question, but I know that shouldn’t have been done. I know what’s going on at Cross with the waterline, and where I used to work, when I went over my boss’s head, he didn’t like it very much. I, at least, got a reprimand or called into the office on the carpet. I like my County. I think Berkeley County is doing a lot of good things. And, I talked with my Council Member. They need some courtrooms. I understand that. I’ve been to the courtroom in St. Stephen. I wasn’t proud to go there. And, this is an off-the-cuff remark, but may I suggest you go see the Mayor of Bonneau. They have a brand new courtroom. They have a brand new fire department. I don’t know how, exactly, they got all of that accomplished. I have some ideas, but I’ll keep them to myself.”

Council Member Steve Davis: “Slow down when you go home, or you’ll find out.”

[laughter]

Mr. Kessler: “Thank you; thank you for hearing me.”

Council Member Steve Davis: “Thank you, Mr. Kessler; thank you very much.”

Council Member Callanan: “Thank you.”

[applause]

Chairman Daniel Davis: “Anyone else? Yes, ma’am.”

Ms. Linda Rhiney: “My name is Linda Riney. I live in Cross – 2052 Highway 311, and I agree with this gentleman 100 percent. We had to go and vote on a referendum for this one-cent

sales tax, and the Council, at the time, promised us that 100 percent would go toward property tax relief. And, what I understand, the Council, County Council is an entity. It doesn't matter who's sitting in the individual seats. County Council gave their word to us, and now, all of sudden, we look around, and we say, what is that word worth, because our 29 percent is gone, and we have absolutely no recourse, and I don't think that's the way our government needs to be run. I really don't. Thank you very much."

Chairman Daniel Davis: "Thank you."

[applause]

Chairman Daniel Davis: "Does anyone else wish to address Council?"

There were no others to address Council.

EXECUTIVE SESSION – none

Chairman Daniel Davis: "We have a presentation by Ms. Vermelle Simmons, regarding the census."

Ms. Vermelle Simmons: "Good evening, I'm Vermelle Simmons, US Census. I'm a Partnership Specialist, and this is DaPayne Doctor, who is the Local Census Manager. We're here to say thank you. A few months ago, it might have been a year ago, a colleague of mine came and asked you to please be our partner. And, we said if you partner with us, hopefully, we'll get better results in the 2010 Census. Well, I'm here to tell you, when he came, he asked for your help. South Carolina was ranked number 49. As of April 21st – 26th, our mail-back participation rate is ranking as 23rd – 23rd in the nation. So, we have really, really gotten support from you that we so honestly asked for, and you've so diligently given it to us. So, we want to say thank you for that help. We also want to say to you our Director, Robert Groves said, South Carolina and North Carolina are the poster children for this census, the 2010 Census, because these two states raised the bar by eight percent, the best in the nation. So, again, you know, I keep saying thank you. Often times, we hear a lot of things from South Carolina, as not always thanking, it's not always raising the bar. We're saying we're raising the bar, but it's not over yet. We still have some more work to do. You have, in your packets, I've delivered and, hopefully, you have it, information about all the counties – 46 counties in our state, and how well we've done. Out of 46 counties, 45 of them all have either met the 2000 results or have exceeded it. We have seven counties that went above 20 percent. I'm here to say thank you Berkeley County. You did a nine percent gain, which is huge, which is huge. Again, we're not over yet, and my colleague, DaPayne Doctor, our Operations and Local Census Manager, we would be remiss not to say thank you to her also, because she, she was on the ground running, making sure all the questions of your constituents were answered. So, DaPayne, tell us what else we have to do?"

Ms. DaPayne Doctor: "Good evening, and thank you for having us. As Vermelle stated, we have made significant accomplishments this decennial census 2010, significantly, above what

we've done in 2000. As it stands right now, we are still on the ground. We are still knocking on doors. We are actually going out and revisiting all of the non-responses that we had from the operations that took place back in April and May. So, we do have people still on the ground trying to capture the last bit of information, which we knew those would be the hard-to-capture information. We expect to wrap up our operation the end of September, and beyond that, behind every operation, there's a quality control procedure that goes on just to make sure that we have done the work correctly and appropriately. So, we will have just a sample of persons out knocking on doors to do what is called census coverage measurement, where they will be knocking on selected doors to capture information to find out if, indeed, there was a census worker there. So, that will continue on until January of 2011, and at that time, we will wrap it up, but we want to say again, thank you for partnering with us, thank you to all of your organizations, local organizations, your administration, your businesses, for partnering with us and providing the resources we needed to conduct the census for 2010 decennial."

Ms. Simmons: "And with that, as we conclude, you have a timeline and your handout, and it says that the census results will go to the President December 31, 2010, and you will be able to actually relish in whatever your resources, your new resources are between February and March when that total census information will be coming back to your areas. But, from now until then, we have a packet, a data packet, if you're GIS Department, any of the towns would like for us to come work with you and show you how to use census data to your benefit, so you can start planning now for 2020. Again, thank you."

A number of Council Members simultaneously expressed their thanks.

Council Member Call: "Mr. Chairman, if I may? Ms. Simmons, everything I got in the mail about the census I brought to the Supervisor, and he made the public aware of those things that were in the mail. One thing, I think, concerned a lot of people was the privacy of the census, and we were able to put a lot of people's fears away, because it was 72 years before, is that what it is before?"

Ms. Simmons: "Seventy-two years, you're right."

Council Member Call: "And then, around Christmas time, I was down in Georgia when my mother passed away, and I read in the Macon Paper where every population-based allocation, I guess is the word that comes from the Federal Government, averaged about \$1,550 per person, and that's when it got serious to me. I think I e-mailed that to the Supervisor, but we're stuck with this census for 10 years, and if you do your math, that's over \$15,000 for every person that we miss. So, we tried from here to publish it as much as we could, and everybody I've seen, my family, friends, was – have you sent your form in; if you haven't, has somebody been to your house – so, everybody that I know has cooperated and, hopefully, that's the reason that South Carolina has done better. You all did a good job of publicizing too, I might say. The Federal Government, apparently, has a few bucks laying around. They can put it on TV for a good purpose, and I think it was a good investment. Thank you; thank you for coming here and sharing the good news of our County."

Ms. Simmons: "And, thank you very much."

[applause]

CHAIRMAN OF COUNTY COUNCIL

THIRD READING

“BILL NO. 10-12, AN ORDINANCE PROVIDING FOR THE ADOPTION OF FISCAL YEAR 2010-2011 (BEGINNING JULY 1, 2010 AND ENDING JUNE 30, 2011) BUDGETS FOR THE BERKELEY COUNTY WATER AND SANITATION AND THE BERKELEY COUNTY WATER AND SANITATION SOLID WASTE FUND; ESTABLISHING OPERATIONAL, DEBT SERVICE AND CAPITAL IMPROVEMENT BUDGETS FOR WATER AND SEWER; AND TO PROVIDE FOR THE EXPENDITURES OF REVENUES COMING INTO BERKELEY COUNTY WATER AND SANITATION AND THE BERKELEY COUNTY WATER AND SANITATION SOLID WASTE FUND DURING THE FISCAL YEAR, AND TO AMEND THE CODE OF ORDINANCES, BERKELEY COUNTY, SOUTH CAROLINA, SETTING RATES, CHARGES AND PENALTIES FOR WATER AND SEWER AND SOLID WASTE SERVICE BY BERKELEY COUNTY WATER AND SANITATION.”

It was moved by Council Member Schurlnknight and seconded by Council Member Steve Davis to **approve Bill No. 10-12 for Third Reading.**

Chairman Daniel Davis: “Motion and second; any discussion?”

Council Member Callanan: “Yes, Mr. Chairman?”

Chairman Daniel Davis: “Mr. Callanan.”

Council Member Callanan: “The question I have on that is, you know, there is a little bit of a crossover between the Water and Sanitation Budget and the County overall budget with regards to employee pay. The ordinance here, am I correct to assume, includes a, includes the increase?”

Chairman Daniel Davis: “It does.”

Council Member Callanan: “Is there a way to – until we decide on the, and I don’t know whether we’re having a workshop or not – I hope that we are on the other budget to approve that without the increase until we decide the circumstances around the other budget, because I, you don’t want a situation where, where one County employee is getting an increase and the other is not, and I just, you know, without having the, without having the workshop, I’m not sure, you know, we’ve decided that or not, so, is that a possibility to do that and then, put it in at a later point? That’s my question.”

Chairman Daniel Davis: "I would have to say if the other budget, if the General Fund Budget isn't passed, then, I think, we would have to hold those salaries to match the General Fund side in some way."

Council Member Callanan: "Is that correct?"

Chairman Daniel Davis: "Can we hold this until we dispense with the – why don't we hold this until we dispense with the County Budget, and then they'll be on the same track."

Council Member Steve Davis: "Having said that, I withdraw my motion then to approve it."

Ms. Nicole Scott Ewing, County Attorney: "We have a recommendation that the, that the Council could go ahead and approve the Water and Sanitation Budget, and then just set any pay increases, whether they be merit or COLA, at the same rate that the County Budget is set, and therefore, they'll match up."

Council Member Callanan: "Would that be an amendment or is that the way that it is set up."

Ms. Ewing: "It's not set up that way, but we could amend it tonight – we could amend it, so that..."

Council Member Callanan: "I don't have a problem with that."

Ms. Ewing: "...the budget goes forward."

Council Member Callanan: "I'll make the amendment that..."

Chairman Daniel Davis: "Well, at the..."

Council Member Steve Davis: "I withdraw my motion..."

[Inaudible, due to a number of individuals speaking simultaneously.]

Chairman Daniel Davis: "Why don't we take them both up at the same time since he has withdrawn the motion?"

Council Member Callanan: "Ok."

Chairman Daniel Davis: "We'll come back to that."

"BILL NO. 10-18, AN ORDINANCE PROVIDING FOR THE FISCAL YEAR BEGINNING JULY 1, 2010 AND ENDING JUNE 30, 2011 FOR THE TALL PINES SPECIAL TAX DISTRICT OPERATIONAL BUDGET; AND TO PROVIDE FOR THE

EXPENDITURES OF THE REVENUES RECEIVED BY THE TALL PINES SPECIAL TAX DISTRICT DURING THE FISCAL YEAR.”

It was moved by Council Member Fish and seconded by Council Member Cathy Davis to approve Bill No. 10-18 for Third Reading. The motion passed by unanimous voice vote of Council. (A copy of Ordinance No. 10-07-19 is attached to these minutes.)

“BILL NO. 10-20, AN ORDINANCE PROVIDING APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 2010 AND ENDING JUNE 30, 2011 FOR BERKELEY COUNTY; TO PROVIDE FOR LEVY OF TAXES ON ALL TAXABLE PROPERTY IN BERKELEY COUNTY FOR ALL COUNTY PURPOSES; TO PROVIDE FOR THE EXPENDITURES OF SAID TAXES AND OTHER REVENUES COMING INTO THE COUNTY THAT WOULD NOT INCLUDE THE 29 PERCENT LOCAL OPTIONS SALES TAX OPTION AND WOULD ONLY TAKE \$500,000 FROM THAT FUND FOR BUDGET PURPOSES FOR THE FISCAL YEAR.”

Chairman Daniel Davis: “We’ll have to hold that one. I’m sorry.”

“BILL NO. 10-21, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #196-05-00-069 AND #196-05-00-059.”

(Bobby Strickland)

It was moved by Council Member Schurlknight and seconded by Council Member Steve Davis to approve Bill No. 10-21 for Third Reading. The motion passed by unanimous voice vote of Council. (A copy of Ordinance No. 10-07-21 is attached to these minutes.)

“BILL NO. 10-22, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #047-00-02-042.”

(America’s Home Place, Inc., for Marion McClennon)

It was moved by Council Member Farley and seconded by Council Member Schurlknight to approve Bill No. 10-22 for Third Reading. The motion passed by unanimous voice vote of Council. (A copy of Ordinance No. 10-07-22 is attached to these minutes.)

“BILL NO. 10-23, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #041-00-05-066.”

(Connie Schuler)

It was moved by Council Member Pinckney and seconded by Council Member Farley to approve Bill No. 10-23 for Third Reading. The motion passed by unanimous voice vote of Council. (A copy of Ordinance No. 10-07-23 is attached to these minutes.)

Berkeley County Council Rules allow all bills to be given Second Reading by one motion as a collective group. Any member may object to a particular bill, and it shall be separated from the collective group and handled by a separate motion.

SECOND READING

It was moved by Council Member Steve Davis and seconded by Council Member Fish to approve Bills Numbered 10-24, 10-25, 10-26, 10-27, 10-28 and 10-29 by one motion. The motion passed by unanimous voice vote of Council.

“BILL NO. 10-24, AN ORDINANCE TO AMEND AND CLARIFY CERTAIN SECTIONS OF ORDINANCE NO. 01-08-35, ADOPTED AUGUST 27, 2001, ZONING AND DEVELOPMENT STANDARDS ORDINANCE ‘BERKELEY COUNTY ZONING ORDINANCE’ AND AMENDING ORDINANCE NOS. 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92 AND 07-07-43, IN REGARD TO THE REGULATION OF INSTITUTIONAL RESIDENTIAL LAND USES AND CHANGES TO THE PERMITTED USE TABLE.”

“BILL NO. 10-25, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #177-00-00-165.”
(Maxine Winningham)

“BILL NO. 10-26, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #210-00-00-198.”
(Robert & Lori Hammond)

“BILL NO. 10-27, AN ORDINANCE CALLING FOR A REFERENDUM AUTHORIZING SOUTH CAROLINA DEPARTMENT OF REVENUE TO ISSUE TEMPORARY PERMITS TO ALLOW FOR THE POSSESSION, SALE AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK TO BONA FIDE NONPROFIT ORGANIZATIONS AND BUSINESS ESTABLISHMENTS AUTHORIZED TO BE LICENSED FOR CONSUMPTION-ON-PREMISES SALES AND TO ALLOW FOR THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION WITHOUT REGARD TO THE DAYS OR HOURS OF SALE.”

“BILL NO. 10-28, AN ORDINANCE AMENDING GENERAL BOND ORDINANCE NO. 96-07-33, WHICH AUTHORIZED AND PROVIDED FOR THE ISSUANCE OF SOLID WASTE SYSTEM REVENUE BONDS OF BERKELEY COUNTY, SOUTH CAROLINA; EXPANDING THE DEFINITION OF SYSTEM THEREIN; AND OTHER MATTERS RELATING THERETO.”

“BILL NO. 10-29, AN ORDINANCE AMENDING GENERAL BOND ORDINANCE NO. 91-04-10, WHICH AUTHORIZED AND PROVIDED FOR THE ISSUANCE OF WATER

AND SEWER SYSTEM REVENUE BONDS OF BERKELEY COUNTY AND GENERAL BOND ORDINANCE NO. 03-03-12, WHICH AUTHORIZED AND PROVIDED FOR THE ISSUANCE OF **WATER AND SEWER SYSTEM REVENUE BONDS OF BERKELEY COUNTY, SOUTH CAROLINA; EXPANDING THE DEFINITION OF SYSTEM THEREIN; AND OTHER MATTERS RELATING THERETO.**"

It was moved by Council Member Steve Davis and seconded by Council Member Schurlknight to **approve Bills Numbered 10-24, 10-25, 10-26, 10-27, 10-28 and 10-29** for **Second Reading.** The motion passed by unanimous voice vote of Council.

FIRST READING

Chairman Daniel Davis stated there were four bills for First Reading. *(Bills for First Reading are not discussed or voted upon. The bills are read into the record by title only and, thereafter, sent to the proper Committee for further consideration.)*

"BILL NO. 10-30, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #242-00-02-055."
(Danny Baston)

"BILL NO. 10-31, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #161-14-00-024 AND #161-14-00-025."
(John and Lucretia Winningham)

"BILL NO. 10-32, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #175-00-01-064."
(Johnnie Capers for Leonard Boyd and Jack Pryor)

"BILL NO. 10-33, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #271-00-02-174 AND #271-00-02-029."
(Earthsource Engineering for Shirley Huggins and John Avinger)

RESOLUTIONS

"RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS IN THE 2009-2010 BERKELEY COUNTY BUDGET FOR COUNTY PURPOSES OTHER THAN AS SPECIFIED IN SAID BUDGET."

This proposed resolution was not necessary this night.

“RESOLUTION DESIGNATING SURPLUS PROPERTY OF BERKELEY COUNTY WATER AND SANITATION AND AUTHORIZING THE SALE OF SURPLUS ITEMS.”

It was moved by Council Member Schurlknight and seconded by Council Member Steve Davis to **approve** the **resolution** designating surplus property of Berkeley County Water and Sanitation and authorizing sale of same. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 10-31 is attached to these minutes.)

“RESOLUTION DESIGNATING SURPLUS PROPERTY OF BERKELEY COUNTY AND AUTHORIZING THE DISPOSAL OF THE SURPLUS PROPERTY.”

It was moved by Council Member Callanan and seconded by Council Member Steve Davis to **approve** the **resolution** designating surplus property of Berkeley County and authorizing the disposal of same. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 10-32 is attached to these minutes.)

“RESOLUTION OF THE COUNTY COUNCIL OF BERKELEY COUNTY, SOUTH CAROLINA, PURSUANT TO THE TAX INCREMENT FINANCING ACT FOR COUNTIES, TITLE 31, CHAPTER 7, OF THE SOUTH CAROLINA CODE OF LAWS, ORDERING A PUBLIC HEARING CONCERNING A REDEVELOPMENT PLAN FOR THE ESTABLISHMENT OF A TAX INCREMENT FINANCING DISTRICT ADJACENT TO INTERSTATE 26; PROVIDING FOR NOTICE TO LOCAL TAXING ENTITIES.”

It was moved by Council Member Steve Davis and seconded by Council Member Fish to **approve** the **resolution** ordering a Public Hearing regarding a redevelopment plan for the establishment of a tax increment financing district adjacent to I-26. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 10-33 is attached to these minutes.)

Chairman Daniel Davis: “And, just as a matter of record, I think this presentation is being made to the School District tomorrow evening, and thus far, we anticipate that they will be approving this concurrently or approving the TIF at the same time.”

“RESOLUTION AUTHORIZING THE COUNTY SUPERVISOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE ACCEPTANCE OF \$90,000.00 FROM HOME TELEPHONE COMPANY TO BE APPLIED TOWARDS INFRASTRUCTURE CONSTRUCTION COSTS OF THE DUPONT CORPORATION FACILITY LOCATED IN BERKELEY COUNTY.”

It was moved by Council Member Steve Davis and seconded by Council Member Farley to **approve** the **resolution** authorizing the County Supervisor to execute documents necessary to accept \$90,000.00 from Home Telephone for application towards infrastructure construction

costs at DuPont's facility in Berkeley County. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 10-34 is attached to these minutes.)

Without objection, Chairman Daniel Davis read the title of a resolution that was not on the agenda this night, as follows:

“RESOLUTION RELATING TO THE ALLOCATION OF \$1,665,334.07 OF BERKELEY COUNTY’S QUALIFIED ENERGY CONSERVATION BOND CAPACITY TO THE SCHOOL DISTRICT OF BERKELEY COUNTY.”

It was moved by Council Member Steve Davis and seconded by Council Member Pinckney to **approve** the **resolution** relating to the allocation of funds from the County’s qualified Energy Conservation Bond capacity to the Berkeley County School District. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 10-35 is attached to these minutes.)

REPORTS FROM STANDING COMMITTEES

Committee on FINANCE

Council Member, Mr. Jack H. Schurlknight, Chairman

Chairman Schurlknight: “Mr. Chairman, the Committee on Finance met earlier this night.”

Chairman Schurlknight: “Upon recommendation of the Committee, I move to **deny** Bill No. 10-20, the Berkeley County Budget.”

Chairman Daniel Davis: “We have a motion, is there a second?”

Council Member Steve Davis: “Second.”

Chairman Daniel Davis: “Any discussion?”

Council Member Steve Davis: “This eliminate – with the \$500,000?”

Chairman Daniel Davis: “Well, this would – Madame Attorney, would you explain, please?”

Ms. Ewing: “An ‘Aye’ vote would deny the budget, and kill the budget ordinance.”

Council Member Steve Davis: “Ok; I got ya. Call for the vote; I’m satisfied.”

Chairman Daniel Davis: “Any further discussion?”

There was no further discussion.

The motion passed by unanimous voice vote of Council.

Chairman Daniel Davis: “Since this has been – since this has been defeated, I will entertain a motion regarding the budget.”

Council Member Steve Davis: “I move that we accept the budget that was approved by the County Supervisor that does not include the stipulations withholding \$500,000.00, specifically, just for the purposes of the Jedburg Interchange and reallocating then the portion there to the taxpayers.”

Chairman Daniel Davis: “Your motion is to approve the budget as presented.”

Council Member Steve Davis: “That’s correct.”

Chairman Daniel Davis: “Ok. There’s a motion. Is there a second?”

Council Member Pinckney: “Second.”

Chairman Daniel Davis: “Any discussion?”

Council Member Callanan: “Yes.”

Chairman Daniel Davis: “Mr. Callanan.”

Council Member Callanan: “Being it’s not on the budget, isn’t this objectionable? I mean, this is not on the agenda. Can this be objected to?”

Chairman Daniel Davis: “I believe, it is on the agenda.”

Ms. Ewing: “It is on the agenda. It came out of Committee as a report from Committee and was actually on the agenda for Third Reading until the Committee denied it.”

Council Member Callanan: “But, that was – that was the budget with the – without using the 29 percent, correct?”

Ms. Ewing: “It’s still the budget. It’s still the budget ordinance. It’s still Bill No. 10-20. It’s not a separate ordinance.”

Council Member Callanan: “Why wouldn’t it just be amended to remove it? I mean, this – procedurally, this just doesn’t seem to make any sense to me, is if something is denied, it then has to be put on the agenda again.”

Ms. Ewing: “No, it doesn’t. It’s still on the – it’s what’s still on the agenda that was originally sent forward. Mr. Schurlknight reported it out, so it is a topic on the agenda. It’s not been left off the agenda.”

Council Member Callanan: "But then, after this would – didn't have to then be held for Third Reading?"

Ms. Ewing: "That's what their proposing to do right now is have Third Reading."

Council Member Callanan: "It'd be..."

Chairman Daniel Davis: "And..."

Council Member Callanan: "Go ahead."

Chairman Daniel Davis: "I'm sorry."

Council Member Fish: "All the work I did was for nothing."

Chairman Daniel Davis: "And, I believe we need to amend the title at this point."

Ms. Ewing: "If I understood Mr. Davis', Mr. Steve Davis' motion correctly, the title would need to be amended to come into line..."

Chairman Daniel Davis: "Ok; so, it's alright to be amended."

Ms. Ewing: "...with his – with his motion."

Council Member Callanan: "Mr. Chairman?"

Chairman Daniel Davis: "Mr. Callanan."

Council Member Callanan: "I'm just confused. I mean, I – there's a – there's an issue here where – and the reason I specifically asked this question is to avoid this situation, which was that Mr. Fish was going to put in an enormous amount of time..."

Council Member Fish: "I already have."

Council Member Callanan: "...into coming up with an alternative budget, and it was done – I mean, ya'll – the Finance Department essentially had five months to do a budget. Mr. Fish had a month, and he got it done, you know, with nine days to spare, under the assumption that we would have a workshop, and discuss some sort of compromise between the two. I mean, why, why has that commitment just been completely eliminated?"

Chairman Daniel Davis: "Well, as yet, I've not seen any, any proposal from Mr. Fish. Actually, it's been 10 weeks, because I think this was done in May of, May 15th, May 17th, somewhere around there."

Chairman Schurlknight: "Correct."

Chairman Daniel Davis: “And, we don’t have any proposal yet, so I’m not sure what you’re talking about. I’ve certainly not seen anything.”

Chairman Schurlknight: “Mr. Chairman?”

Chairman Daniel Davis: “Mr. Schurlknight.”

Chairman Schurlknight: “I’d just like to add, and you are exactly right, this goes back 10-12 weeks ago that we’re asking, or I was asking as Chairman of Finance to give me something in writing on an alternative budget that we could look at, so. As of this moment, I haven’t, still haven’t seen anything. I’m not sure if ya’ll are working on anything or not, and it’s been over two months now. So, I really don’t see what the problem was. There was plenty of time, and everybody knew going into this thing that’s what everything hinged on in having that workshop.”

Council Member Callanan: “Mr. Chairman?”

Chairman Daniel Davis: “Mr. Callanan.”

Council Member Callanan: “Correction; it was one month that I had asked whether or not if a – if we come up with an alternative budget, whether – and I think the exact words I used ‘whether it be given the light of day’. And, I think, obviously, unless – you must be communicating with your Finance Director to know that Mr. Fish has been constantly asking her for information to create this budget. And, so, I just think it’s, you know, we have nine days til the end, you know, to this continuing resolution expires, you know, if Mr. Fish has a budget, which he mentioned to me that he does, an alternative, an alternative that, by the way, does not, does not take away any funds, does not use any money from the General Fund, simply lowers the rate of growth so that we can give money back to the folks with regards to the 29 percent. You know, I think it’s worth our time this week to have a workshop to discuss it. I, you know, and the issue of it being two months ago, no, it was one months ago where you assured me that there would be a workshop to discuss a compromise where, where this issue would be brought up.”

Council Member Pinckney: “Mr. Chairman?”

Chairman Daniel Davis: “Mr. Pinckney.”

Council Member Pinckney: “Like Mr. Callanan, I too am confused, because in listening at what he said, he said that Mr. Fish had discussed with him some alternative means to current, or the proposed budget. But then, if I read in the paper correctly, Mr. Fish stated that he had not received the proper, all the information he needed in order to move forward. Now, is it or isn’t it? I mean, I’m confused.”

Council Member Fish: “Mr. Chairman, let me answer that. It’s all on me.”

Chairman Daniel Davis: “Mr. Fish.”

Council Member Fish: “Yes, I got the file information requested from your Finance Director last Thursday. I do have it almost ready to present to everybody. I don’t – I agree with Mr. Callanan. I’m not sure what the big deal is about three or four more weeks. You were talking a lot amount of money, you know. For example, the Mount Holly Funds were sitting there. We had a \$2,000,000 increase in property tax. There’s a lot of alternatives on that. I already talked to most elected officials. We’re not taking any money away from them. You know, some object to the thing about, you know, for the last two years, every department has under spent. Every department has under spent. I’ll say it again. Every department is under spent across the board for the second continuous year. The budget includes not what the expenditures were going forward. The budget includes what last year’s budget was, plus. But, as you mentioned earlier, three months ago, Mr. Chairman, this is your budget. You have the freedom to bring it to us. You did so. If you refuse to take a look at this, that’s fine. It’s your budget, so.”

Council Member Steve Davis: “Mr. Chairman?”

Council Member Fish: “It’s up to you.”

Chairman Daniel Davis: “Mr. Davis.”

Council Member Steve Davis: “Mr. Fish and I had a discussion about this, and I outlined to him what my position was. This tremendous colloquy of political jogging, whatever you want to call it, is getting late. And, I don’t mean late in relationship to being here for the purposes of doing the bidding of Berkeley County citizens. I welcome this opportunity to serve on County Council. I really believe that the Supervisor have submitted a conscientious and lean budget, one that really affords us an opportunity to move forward. I had a discussion with Mr. Fish that, that has not been any active breakdown in relationship to changing the overall numbers in relationship to what the County Supervisor have submitted. I’ve shared with Mr. Fish that I’m prepared to work with him doggedly to confront some of the issues he may have in relationship as we prepare our budget for the next budget-go-round, but this whole climate in relationship to this budget have been so clouded politically that it just behooves me that in relationship of a whole election, to some extent, have been made about this 29 percent, allocation of one percent, of one cent, and it is so clouded in that regard, that, I believe, at this point and at this time, the sensible thing to do in relationship to the Supervisor who have prepared this budget over a period of time, and we have waited and waited, and there’s been no workshop, we need to move forward. I move that we accept the budget as submitted by the County Supervisor, which does not include this breakdown out of \$500,000.00 and then returning the funds. So, what we’re proposing is that the budget include the 29 percent of the one cent. How the citizens that I represent out in District 8 don’t have to go in Barron’s Department Store that’s been a make-shift for a courthouse. It’s very rare that the citizens down my way have an opportunity to see their tax dollars at work. And, I can assure you that a brand new spanking courthouse that would be on par with what’s in Hanahan, Goose Creek, Moncks Corner and even the Town of Bonneau would be a worthwhile cause. So, it’s my motion that we accept the budget as submitted by the County Supervisor. That’s my motion.”

Chairman Daniel Davis: "Ok; any other discussion?"

Council Member Call: "Mr. Chairman?"

Chairman Daniel Davis: "I'd like to point out this budget has been called the Supervisor's budget in error. It's a Supervisor's proposal, and it was – when he gave us his proposal, it became ours to do what we will with it. And, we're putting this thing off, and we put it off with a continuing resolution, and we put it off, I see in the minutes, from one place where Mr. Fish was going to give us information in four days. I think that was at the last meeting, and we were going to schedule a workshop, and the four days have obviously have long passed. I would say we move the question and vote. That's my motion."

Council Member Callanan: "Mr. Chairman? I..."

Chairman Daniel Davis: "Mr. Callanan."

Council Member Callanan: "I just want to clarify. And, the issue is that ya'll have the votes, obviously, alright, and that if that is the case from the moment that you submitted the budget, I just find it to be – I'm biding my time, because I'm trying to be as – I just find it to be a little bit unfair to..."

Council Member Call [speaking to Ms. Ewing]: "Nicole, my motion to move the question – call the question..."

Council Member Callanan: "...have to... Mr. Call?"

Council Member Fish: "So much for transparency, huh?"

Council Member Callanan: "I know."

Council Member Call: "You have something you want to say to me?"

Council Member Callanan: "Yeah; I'm trying to speak..."

Chairman Daniel Davis: "Mr. Fish, I mean, Mr. Callanan, if you'll let me handle the meeting. It is my meeting."

Council Member Callanan: "Fine."

Council Member Call: "Mr. Chairman?"

Council Member Callanan: "No; I'm not done speaking."

Chairman Daniel Davis: "I was looking at you (Mr. Fish), and trying..."

Council Member Call: "If I may, I believe I have a motion out there to call the question."

Chairman Daniel Davis: "Mr. Call; Mr. Call, were you calling for a motion to call the question?"

Council Member Call: "Yes."

Council Member Callanan: "And, I was recognized."

Council Member Call: "In error."

Chairman Daniel Davis: "Mr. Call, if you would just hold on just a second, and let Mr. Callanan finish."

Council Member Callanan: "The point I'm trying to make is that Mr. – you made Mr. – Mr. Fish spend an enormous amount of time doing this work on a commitment of some sort of compromise and a workshop that really wasn't there. And, you know, and that's the issue that I have. Ya'll have the votes. You can vote for it if you want, but I just found that to be a little bit unfair, and I'll leave it at that."

Chairman Schurlknight: "Mr. Chairman?"

Chairman Daniel Davis: "Mr. Schurlknight."

Chairman Schurlknight: "I'd just like to address a couple things as Chairman of Finance. We were being as fair as possible. We were given as much time as was needed. This is not something that came in the eleventh hour of this. We sat right back in the Supervisor's conference room, and if you go back and look in the minutes, every meeting, I was reminding people what we need to do to get that workshop on a schedule. Now, I was not gonna call a workshop without staff having time to look at exactly ya'lls alternatives to the budget. I also wanted Council to look at those alternatives to get some good questions about this thing. I hate it just as much as ya'll hate it that this thing didn't happen, but don't throw it back on the Chairman of Finance and this Council that we tried to close the door on you. Ya'll had plenty of time to get this stuff done. Ya'll didn't make the time limit. Thank you."

Council Member Fish: "Mr. Chairman?"

Chairman Daniel Davis: "Before – before I recognize you, I would like to make one statement, because some – and clarify something, because Mr. Fish, you or someone implied that Mr. Fish had difficulty getting information from Finance..."

Council Member Callanan: "No we didn't."

Council Member Fish: "No, no."

Chairman Daniel Davis: "I think it was in the paper that, that he had difficulty, and I'd just, I'd like to ask Ms., Ms. Smith to tell us when was the first request that you had from Mr. Fish regarding information for a budget, a counter proposal?"

Ms. Kace Smith, Finance Director: "Well, Mr. Chairman, I'd like to begin at the..." beginning..."

Chairman Daniel Davis: "Ok; do that."

Ms. Smith: "...when we first did the recommended budget. The recommended budget was presented to County Council on Monday, May 17th. On Tuesday, June 1st, I received my first request for information on Salary. On Thursday, June 3rd, I sent it to each of the Council Members. On Thursday, June 3rd, later in the evening, I got an additional request from a County Council Member. That information was sent to you on Friday, June 4th. On Thursday, June 17th, County Council gave Second Reading to the recommended budget. On Monday, June 28th, County Council requested information at the Council Meeting. That information was sent to you all, or sent on Wednesday, June 30th. On Monday, the 14th, at the last Committee Meeting, Mr. Fish indicated he was going to contact me for additional information. On Tuesday, July 20th, I received a phone call from Mr. Fish requesting information, and that information was sent to him on Thursday, July 22nd."

Chairman Daniel Davis: "Ok; thank you. So, I just want to make it clear. There was no delay in any, in providing the information, so. And, as I said, I still have not seen a proposal, a counter proposal for the budget. And, there, you know, this is time sensitive. We have to set the millage in a timely fashion and to continue delaying the budget puts that in jeopardy. We do need to press on."

Council Member Callanan: "And, Mr. Chairman, just in all fairness. It is enormous amount of work for one person to do in four weeks time, and that's how much it was when, since we made the commitment for the workshop. And, and, I don't know, maybe, in the future, we can have better communication on that, because I know, certainly, it wasn't, you know, if you knew Mr. Fish was working on it, possibly, you know, call him up. Find out what the status is. It's not a big deal. I just want to prevent this sort of thing from ever happening again. I just don't think it's, I don't think it's fair. And, I also, I would probably recommend that you actually don't wait until May to have this – that we have a Finance Committee Meeting in February to discuss what Council's wishes are with regards to the budget. I think that is, you know, that's reasonable. We're all charged with the responsibility of acting on behalf of the citizens of Berkeley County, so it's very important, I would think, to get each of ours input as to where the budget be. So, I'm not the Chairman of Finance, but if I were, that's what I would do this coming year."

Chairman Daniel Davis: "And, Mr. Callanan, I agree with you 100 percent. As a matter-of-fact, the dates though, if you recall, we had the strategic planning session back in November. The purpose of that – the purpose of – the pur..."

Council Member Callanan: "I have the minutes, so. Go ahead."

Chairman Daniel Davis: "...can I – can I finish my statement? As you pointed out to Mr. Call, please don't speak when another – and I called him down. But, we had a strategic planning session. The purpose of that was to begin our planning process for the budget. That's what a strategic planning session is for. Now, you have, you have a date? You have what, Sir?"

Council Member Callanan: "Well, the minutes from the strategic planning session do not mention the budget at all. It is a vague plan with regards to the long-term plan of Council. None of the budget is mentioned in that, and I think, you know, I – look, you know, I didn't want to come here to argue. I just want to make sure that this sort of thing doesn't happen, and we have better communication, and we work with each other next year, because clearly, we didn't do it this year. And, I think it's a reasonable request."

[applause]

Chairman Daniel Davis: "And, that is. As a matter-of-fact, you know, we've talked several times about having more workshops, so that we can work together. I am very willing to do the workshops to help, to help that process along. I just ask that if we do the workshops that all Members of Council attend, and they are productive, so."

Council Member Fish: "Mr. Chairman, can I make a comment?"

Chairman Daniel Davis: "Mr. Fish."

Council Member Fish: "You know, workshops are wonderful, but the ones we have is, basically, show and tell by you and the staff about what you've already done. It takes us awhile to – it takes me awhile as an accountant to digest the information, but that time it's not a workshop, it's a show and tell, and you've already given us your budget, and there it is. You know, a month ago, we were at Second Reading when I said I would take it on, and it's my fault, Mr. Callanan. I did take a week vacation in there, and I apologize to staff for taking a vacation, you know, sorry. The work is, basically, done, but it is what it is. When I was Finance Chairman in the past, I worked with you and the Finance Director. I met with Elected Officials. I met with Elected Officials last week. That's not happened – never mind. So, do your thing."

Council Member Callanan: "Call for the vote."

Chairman Daniel Davis: "I will call for the vote in a minute. I'm going to declare a five-minute recess. I need to – I need to consult with our County Attorney, and so, I'm going to declare a five-minute recess. We'll be back."

Council entered into recess at 7:10 p.m.

Council reconvened its Regular Session at 7:14 p.m.

Chairman Daniel Davis: “We have a – as all of you can guess, this gets very complicated. We have a procedural matter that is of concern to our County Attorney, so at this time, I’d like...”

It was moved by Council Member Steve Davis and seconded by Council Member Schurlknight to enter into Executive Session to discuss matters relating to the proposed location, expansion or the provision of services encouraging location or expansion of industries or other businesses in the area served by the County; discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property; the receipt of legal advice, where the legal advice relates to a pending, threatened or potential claim; or other matters covered by the attorney/client privilege; settlement of legal claim; or the position of the County in other adversary situations involving the assertion against the County of a claim. The motion passed by unanimous voice vote of Council.

Council entered into Executive Session at 7:15 p.m., and reconvened to Regular Session at 7:44 p.m.

Ms. Ewing: “Yes, Mr. Chairman; first I want to apologize for the confusion, and secondly, I’d like to report that the Council went into Executive Session for the reasons stated in the motion, and more specifically, for the receipt of legal advice. No action was taken.”

Council Member Steve Davis: “Mr. Chairman?”

Chairman Daniel Davis: “Mr. Davis.”

Council Member Steve Davis: “Based on legal advice – and I was one that motioned to address the budget, 10-20 (Bill Number), coming out of Committee. At this time, I move to reconsider our vote on that 10-20.”

Chairman Daniel Davis: “We have a motion. Is there a second?”

Council Member Pinckney: “Second.”

Chairman Daniel Davis: “Motion and second; any discussion?”

There was no further discussion.

Chairman Daniel Davis: “Can we have a roll call, just for the record?”

Ms. Barbara Austin, Clerk of Council: “You are – this, this motion, this vote, this reconsideration of this vote is on the 10-20 as it appeared on the agenda?”

Chairman Daniel Davis: “Is on 10-20 as it was reported out of Committee.”

Council Member Steve Davis: “That’s correct.”

Ms. Ewing: “And, Ms. Barbara, just for clarification, the vote is only for the motion to reconsider. It is not a vote on any underlying bill.”

Chairman Daniel Davis: “You’re gonna do the roll call now.”

Ms. Austin: “Yes, motion to reconsider.”

Chairman Daniel Davis: “The motion to reconsider.”

Ms. Austin: “Correct.”

Council Members voting “Aye”: Call, Schurlknight, Pinckney and Steve Davis.

Council Members voting “Nay”: Farley, Callanan, Cathy Davis and Fish.

Chairman Daniel Davis: “That’s four to four?”

Ms. Austin: “Yes, Sir.”

Chairman Daniel Davis: “And, I vote ‘Aye’.”

The motion to reconsider Bill No. 10-20 for Third Reading passed by majority voice vote of Council.

Chairman Daniel Davis: “Ok; now, since the motion’s been made to reconsider report out of Finance, Mr. Schurlknight, would you please repeat that report.”

Chairman Schurlknight: “Sure; Mr. Chairman, the Committee on Finance met earlier this night, and Mr. Chairman, upon recommendation of the Committee, I move to deny Bill No. 10-20, the Berkeley County Budget.”

Council Member Steve Davis: “I second it.”

Chairman Daniel Davis: “Any discussion?”

There was no further discussion.

Chairman Daniel Davis: “I think again, we need a roll call vote.”

Council Members voting “Aye”: Farley, Callanan, Cathy Davis and Fish.

Council Members voting “Nay”: Call, Schurlknight, Pinckney and Steve Davis.

Chairman Daniel Davis: “And, again, we have a tie, and I vote ‘Nay’.”

The motion to deny Bill No. 10-20 for Third Reading failed to pass.

Council Member Steve Davis: "I make a motion to pass 10-21 as submitted by the County Supervisor. 10-21 is the budget."

Council Member Farley: "10-20."

Chairman Daniel Davis: "10-20."

Council Member Steve Davis: "10-20, I'm sorry."

Chairman Daniel Davis: "Just a point of order just to make sure, Madame Counsel, would that serve correctly as the title for the ordinance?"

Ms. Ewing: "If I'm understanding Mr. Davis' motion correctly, he would want to delete any provisions that restrict..."

Council Member Steve Davis: "That's correct."

Ms. Ewing: "Let me restate that. Let me, specifically, say what I think you want to say. With regard to the title, that you would want to delete that sentence, that portion of the last sentence, beginning that would not include the 29 percent local option sales tax option and would only take \$500,000 from that fund for budget purposes for the fiscal year."

Council Member Steve Davis: "That's my motion."

Ms. Ewing: "And, therefore, the budget title would then read, an ordinance providing appropriations for the fiscal year beginning July 1, 2010 and ending June 30, 2011 for Berkeley County to provide for levy of taxes on all taxable property in Berkeley County for all County purposes, to provide for the expenditures of said taxes and other revenues coming into the County."

Council Member Steve Davis: "That's correct."

Chairman Daniel Davis: "Is that your motion, Mr. Davis?"

Council Member Steve Davis: "That's my motion."

Council Member Schurlknight: "Second."

Chairman Daniel Davis: "Is there a second? Any discussion?"

There was no further discussion.

Chairman Daniel Davis: "Ok; just for the record, one more time."

Ms. Austin: "May I ask one question?"

Chairman Daniel Davis: "Yes, ma'am."

Ms. Austin: "This motion is to give Bill No. 10-20 Third Reading?"

Council Member Steve Davis: "That's correct."

Chairman Daniel Davis: "It would give Bill No. 10-20 Third Reading, yes."

Ms. Austin: "Ok."

Council Members voting "Aye": Call, Schurlknight, Pinckney and Steve Davis.

Council Members voting "Nay": Farley, Callanan, Cathy Davis and Fish.

Chairman Daniel Davis: "I think once again, and I vote 'Aye'."

Council Member Callanan: "A legal question?"

Chairman Daniel Davis: "Mr. Callanan, please address the Chair, please."

Council Member Callanan: "I have a legal question, legal objection."

Chairman Daniel Davis: "Go ahead."

Council Member Callanan: "When – and this could be clarified by just answering this question the right way. When does this raise take affect? The one-and-a-half percent?"

Ms. Ewing: "I believe it would – unless language was put into the budget differently, it would go into effect July 1st. Is that correct, Kace?"

Ms. Smith: "The first pay period in July."

Ms. Ewing: "The first pay period in July."

Council Member Callanan: "And, the Supervisor is included in that?"

Ms. Ewing: "I'm going to defer that question to Kace."

Ms. Smith: "All the electeds are included in that by resolution."

Council Member Callanan: "I mean, the question I have is there's only one restriction on this and 4-9-100, which is – which you probably know about, which is the – the restriction on salary changes does not apply to Supervisors under the Council/Supervisor form of government who's salaries may be increased during their terms, which this would be during his term, but supervisors shall not vote on the question when it is considered by Council."

[laughter]

Ms. Ewing: "You guys come up with some great ones."

Council Member Callanan: "Well look, we have to abide by the law."

Ms. Ewing: "Alright; I understand that. I haven't been asked to review that law ahead of time, so I'm not familiar with it. So, if I could see the statute, I'd appreciate it, and I would probably have to do some case law research on it."

Chairman Daniel Davis: "Well, I'll forego my raise, and we will do it. Nicole, if we go back and amend – can we have an amendment to that, and eliminate any increase for me..."

Council Member Callanan: "Well..."

Chairman Daniel Davis: "...and proceed along."

Council Member Steve Davis: "Reconsideration."

Ms. Ewing: "We, we certainly could do that. My gut instinct is that by salary, the statute means the base salary, the compensation. This is not a merit increase. This is not a raise. This is a cost of living adjustment that's just flat, across the board. However, if Council..."

Council Member Callanan: "I would prefer to do it that way. I mean, without objection, because someone, someone from the public can then challenge the vote."

Ms. Ewing: "We certainly can go back and take the Supervisor's salary..."

Council Member Callanan: "Because..."

Ms. Ewing: "...out of the budget, and hold that matter until we have an opportunity to research it, and report back to Council."

Council Member Callanan: "Fine."

Chairman Daniel Davis: "Ok, so a motion to amend would be appropriate, correct, at this point?"

Ms. Ewing: "I believe a motion to reconsider..."

Council Member Steve Davis: "Reconsider."

Ms. Ewing: "because it had a vote, and it has been called."

Council Member Steve Davis: "I move that we..."

Chairman Daniel Davis: "Go back through the process again. Since you're good at it, you want to make the motion to reconsider?"

Council Member Steve Davis: "I move that we re-reconsider the decision we just made in reference to 10-20."

Chairman Daniel Davis: "We have a motion. Is there a second?"

Chairman Schurlknight: "Second."

Council Member Callanan: "Legal question?"

Chairman Daniel Davis: "We have a motion and a second, any discussion?"

Council Member Callanan: "Yes."

Council Member Fish: "A question."

Council Member Callanan: "If it's a tie vote, who's the majority that can request the reconsideration?"

Ms. Ewing: "Well, this is just a motion to reconsider, so it does not deal with the Chairman's salary."

Council Member Callanan: "Do you understand my point? Who is on the prevailing side?"

Chairman Daniel Davis: "I'll declare a recess until we get the issue resolved."

Ms. Ewing: "Mr. Chairman, might I suggest, because this may take awhile since it was a legal question that we were not prepared for as it was not addressed, that you move forward with the rest of the meeting, so that these fine people out here are not unduly delayed anymore. And then, as soon as Josh and I have an opportunity to research Robert's Rules, we'll report back to you."

Chairman Daniel Davis: "Alright; that will be fine. Thank you."

Council Member Fish: "They can't take a vote now. Jack's gone. They'll lose."

Chairman Daniel Davis: "We'll proceed on to the Committee on Land Use, Mr. Farley."

Committee on LAND USE
Council Member, Mr. Phillip Farley, Chairman

Chairman Farley: “Mr. Chairman, the Committee on Land Use met on July 12th, and all the matters before the Committee have been addressed earlier on this night’s agenda.”

(That concluded Chairman Farley’s report.)

Committee on PUBLIC WORKS AND PURCHASING
Council Member, Mr. Robert O. Call, Jr., Chairman

Chairman Call: “Mr. Chairman, the Public Works and Purchasing Committee met on July 12th and earlier this evening. Several of the matters before the Committee have already been addressed.

a. Architectural Services Indefinite Delivery Contract to SGA Architectural, LLC and Davis & Floyd

Chairman Call: “On recommendation of the Committee, I move to **award** the architectural service indefinite delivery contract to SGA Architectural, LLC, and Davis & Floyd, for a two-year contract, with up to three additional years’ extension.” *(No second required.)*

The motion passed by unanimous voice vote of Council.

**b. Professional Services (Engineering) Contract
Burntwood Drive CDBG Water Project
[In Amount of \$58,404.50]**

Chairman Call: “On recommendation of the Committee, I move to **award** the professional services engineering contract to the Burntwood Drive CDBG Water Project to HEG Engineering Consultants, in the amount of \$58,404.50.” *(No second required.)*

The motion passed by unanimous voice vote of Council.

Chairman Call: “Also, on recommendation of the Committee, I move to **award** the contract for the Airport FBO aircraft maintenance service to Light Aircraft Charleston, for a one-year contract, with up to four additional one-year extensions.”

The motion passed by unanimous voice vote of Council.

(That concluded Chairman Call’s report.)

Committee on JUSTICE AND PUBLIC SAFETY
Council Member, Steve C. Davis, Chairman

Chairman Steve Davis: “No report.”

(That concluded Chairman Steve Davis' report.)

Committee on WATER AND SANITATION
Council Member, Mr. Timothy J. Callanan, Chairman

Chairman Callanan: "Mr. Chairman, the Committee on Water and Sanitation met on July 12th. All matters before the Committee have been addressed earlier on this night's agenda."

(That concluded Chairman Callanan's report.)

Committee on PLANNING AND DEVELOPMENT
Council Member, Mrs. Cathy S. Davis, Chairman

Chairman Cathy Davis: "No report."

(That concluded Chairman Cathy Davis' report.)

Committee on COMMUNITY SERVICES
Council Member, Mr. Caldwell Pinckney, Jr., Chairman

Chairman Pinckney: "Mr. Chairman, the Committee on Community Services met on July 12th. All matters before the Committee have been addressed earlier on this night's agenda."

(That concluded Chairman Pinckney's report.)

Committee on HUMAN SERVICES
Council Member, Mr. Dennis L. Fish, Chairman

Chairman Fish: "No report."

(That concluded Chairman Fish's report.)

NOMINATIONS FOR MEMBERSHIP ON BOARDS, COMMISSIONS, ETC.

There were no nominations for membership on any boards or commissions.

CORRESPONDENCE – none

UNFINISHED BUSINESS – none

NEW BUSINESS – none

ANNOUNCEMENTS

Chairman Daniel Davis: “I will just announce, and then we’re gonna have to take a recess, but the next meeting of County Council will be the August Meeting, will be held on August 23rd immediately following the Public Hearings as we did tonight, and those Public Hearings will be at 6:00 o’clock. And so, at this time, I’m going to declare recess until we get word back from our Legal Counsel. So, we stand recessed.

Council entered into recess at 8:00 p.m.

Council reconvened its Regular Session at 8:11 p.m.

Chairman Daniel Davis: “Ok. We are out of recess, and Madame Attorney, would you please give us a report.”

Ms. Ewing: “Thank you, Mr. Chairman. After reviewing the statute provided to me this evening, I have concluded that the plain language of the statute does appear to disallow the Supervisor from voting on his salary. While it is unclear whether a COLA would be considered an increase in salary, out of an abundance of caution, I advise that the Supervisor’s vote on that matter not be recorded. Therefore, the motion to approve Bill No. 10-20 amended failed for a lack of majority, and the floor is open for further action, such as a motion to approve every provision of the budget, with the exception of the cost of living adjustment as it relates to the County Supervisor.”

Council Member Steve Davis: “I so move.”

Council Member Schurlknight: “Second.”

Chairman Daniel Davis: “Alright; motion and second. Any discussion?”

Council Member Farley: “Does this include all Elected Officials or does this specifically state just the Supervisor?”

Chairman Daniel Davis: “Just the Supervisor.”

Ms. Ewing: “The statute that was provided to me this evening about 10 minutes ago just related to the County Supervisor. I have not been offered any statute to read as it relates to Elected Officials.”

Chairman Daniel Davis: “And since it’s come up, we also – Mr. Farley, don’t we need to deal with your...”

Council Member Farley: “Yes, Sir.”

Chairman Daniel Davis: "...because you..."

Council Member Farley: "I'll recuse myself."

Chairman Daniel Davis: "Well, I think, if we have a motion, if we exempt both of those, would that be the proper way to handle it, to exempt both, both your situation and mine, and then we'll have that vote, and then come back and take care of Ms. Farley?"

Ms. Ewing: "Mr. Chairman, did Mr. Davis have a second on his vote?"

Council Member Steve Davis: "Yes."

Ms. Ewing: "Then, the proper procedure would be to move forward with the vote, unless Mr. Davis agrees to have his motion amended, and he withdraws it."

Council Member Steve Davis: "I move to have my motion amended and withdrawn."

Chairman Daniel Davis: "Ok; now, do we want to have a new motion then? Would you make a new motion?"

Council Member Steve Davis: "My God; I move that we accept 10-20, excluding pay COLA increase for the County Supervisor and a provision that allows Mr. Farley to recuse himself."

Ms. Ewing: "Mr. Davis, as I understand your motion, you're moving that we exclude the County Supervisor's salary and also exclude the Director of Voter & Registration's Budget, so that her budget may be voted on separately."

Council Member Steve Davis: "That's correct."

Council Member Farley: "That's correct."

Council Member Steve Davis: "That's correct."

Chairman Daniel Davis: "Ok, we now have a new motion. Is there a second?"

Council Member Pinckney: "Second."

Ms. Ewing: "And, just to clarify, that was COLA, not salary. Obviously, Mr. Davis needs to still get paid."

Chairman Daniel Davis: "Alright, there's no discussion. All those..."

Council Member Callanan: "Woo, why isn't there any discussion?"

Chairman Daniel Davis: "I didn't hear anybody say anything. I called for discussion."

Council Member Callanan: "You just said a motion and second."

Chairman Daniel Davis: "No, I called for discussion."

Council Member Callanan: "Alright."

Chairman Daniel Davis: "Go ahead. Would you..."

Council Member Callanan: "I just, I just..."

Chairman Daniel Davis: "...like to discuss something, Mr. Callanan?"

Council Member Callanan: "Yes; I just want clarification here. What – so, if the Third Reading failed, correct?"

Ms. Ewing: "The motion failed. The motion to approve the budget..."

Council Member Callanan: "Failed."

Ms. Ewing: "...failed for lack of a majority."

Council Member Callanan: "For lack of a majority, so therefore, what are we doing?"

Ms. Ewing: "The floor is still open. Mr. Davis has now made a motion. Mr. Steve Davis has now made a motion to approve Bill No. 10-20, with the exception of the Supervisor's COLA. So, Mr. Davis, if a tie-breaking vote is needed, would not be voting on any compensation for himself, and the Voter Registration Director's Budget would be excluded, as there has been, there's a conflict with Mr. Farley."

Council Member Callanan: "Just so I know, the – when it's failed, because of no majority, it does not have to go through three readings again. Is that what you're saying."

Ms. Ewing: "It failed for lack of a majority. There was no positive motion to deny it. There was no positive motion to approve it. It failed for lack of a majority."

Council Member Callanan: "Ok."

Chairman Daniel Davis: "Any other discussion?"

Council Member Fish: "I have one more question. Can you define that a little bit further? What do you mean it failed for lack of a majority? Does that mean it failed, failed? We get to vote on it again until we get it right."

Ms. Ewing: "The motion failed, and now, you can either go home, you can vote on it again, or you can continue discussing it."

Chairman Daniel Davis: "Any other discussion?"

Council Member Callanan: "Is the a – and so..."

Chairman Daniel Davis: "Mr. Callanan."

Council Member Callanan: "Ok; I'm sorry."

Chairman Daniel Davis: "You are recognized."

Council Member Callanan: "So, the issue is not – because it didn't fail, it's not objectable, right? It's not a new issue on the agenda?"

Ms. Ewing: "It's not a new issue on the agenda. It's still Bill No. 10-20."

Council Member Callanan: "Ok; thank you; I'm done."

Chairman Daniel Davis: "Any other discussion?"

There was no further discussion.

Chairman Daniel Davis: "Roll call."

Ms. Austin: "This is the motion to approve Bill No. 10-20, excluding your COLA increase and Voter Registration's Budget."

Council Member Steve Davis: "That's correct."

Chairman Daniel Davis: "That's correct."

Ms. Austin: "Mr. Farley, you can't vote. Yes, you can vote. This is excluding that."

Council Member Farley: "What now."

Chairman Daniel Davis: "You can vote."

Council Member Steve Davis: "You can vote. You can vote."

Council Member Callanan: "You can't..."

Ms. Austin: "This motion is to approve Bill No. 10-20, excluding the Supervisor's..."

Council Member Farley: "Nay."

Ms. Austin: "...increase, and excluding Voter Registration Department. You can vote."

Council Member Steve Davis: "The Supervisor can vote too."

Council Member Farley: "Nay."

Ms. Ewing: "And then Mr. Farley, we'll take up the Voter Registration Budget separately."

Council Member Farley: "Correct."

Council Members voting "Aye": Call, Schurlknight, Pinckney and Steve Davis.

Council Members voting "Nay": Farley, Callanan, Cathy Davis and Fish.

Chairman Daniel Davis: "Is it four/four again?"

Ms. Austin: "Yes, Sir."

Chairman Daniel Davis: "I vote 'Aye'."

The motion passed by majority voice vote of Council.

Council Member Steve Davis: "Now, I make a motion just to approve the budget of the Voter's Registration included in Bill No. 10-20."

Council Member Schurlknight: "Second."

Chairman Daniel Davis: "We have a motion and second, any discussion?"

There was no further discussion.

The motion passed by majority voice vote of Council. Council Member Fish voted "Nay". Council Member Farley was recused from voting.

Ms. Ewing: Mr. Chairman, the Director of Water and Sanitation has reminded me..."

Chairman Daniel Davis: "That's right."

Ms. Ewing: "...that their budget has not been addressed."

Chairman Daniel Davis: "Ok; at this time, I'll entertain a motion for Bill No. 10-12, an ordinance providing for the adoption of fiscal year 2010-2011 for Berkeley County Water and Sanitation."

Council Member Steve Davis: "Move for approval."

Council Member Callanan: “Second.”

Chairman Daniel Davis: “Motion and second; any discussion?”

There was no further discussion.

The motion passed by unanimous voice vote of Council.

Chairman Daniel Davis: “And, we’ve completed everything else. Is there – do I have a Motion for adjournment?”

ADJOURNMENT

It was moved by Council Member Steve Davis and seconded by Council Member Schurlknight to **adjourn** the Regular Meeting of Council. The motion passed by unanimous voice vote of Council.

Meeting adjourned at 8:19 p.m., for the execution of documents by Council.

PUBLIC DISCUSSION – none

S/Barbara B. Austin, CCC
Clerk of Council

August 23, 2010
Date Approved